

ORDINANCE NO. 09-31

ORDINANCE APPROVING THE DEVELOPMENT AGREEMENT BY AND AMONG F71-2, LLC, A FLORIDA LIMITED LIABILITY COMPANY, F78-1, LLC, A FLORIDA LIMITED LIABILITY COMPANY, AND THE CITY OF HIALEAH, FLORIDA, A COPY OF WHICH IS ATTACHED HERETO AND MADE A PART HEREOF AS EXHIBIT "1". **PROPERTY LOCATED AT THE NORTHEAST CORNER OF NW 97 AVENUE AND THEORETICAL NW 154 STREET, HIALEAH, FLORIDA, COMPRISING OF APPROXIMATELY 133 ACRES.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of March 25, 2009 recommended approval of this ordinance; and

WHEREAS, the City and the Developer, F71-2, LLC and F78-1, LLC, desire to enter into a development agreement pursuant to the Florida Local Development Agreement Act, sections 163-3220 et seq., Florida Statutes; and

WHEREAS, the Developer agrees to dedicate a 50-foot right-of-way for the expansion of NW 97 Avenue for a distance of 2,600 feet along NW 97 Avenue in exchange for a concurrency reservation based on current public services and facilities for 20 years subject to an extension of time based on mutual agreement by the City and the Developer, an agreement on the density, building heights, setbacks and intensities (including the calculation of the land dedicated to the City) as set forth in the current regulations of the Residential Development District and an agreement to pay the amount of the impact fees calculated at time of the execution of the agreement and pay any impact fee or assessment related to the provision of potable water that is the lesser of the amount as first assessed or as assessed at time of the issuance of the first building permit.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The foregoing facts and recitations contained in the preamble to this ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

Section 2: The City of Hialeah, Florida hereby approves the Development Agreement by and among F71-2, LLC, a Florida limited liability company, F78-1, LLC, a Florida limited liability company, and the City of Hialeah, Florida, a copy of which is attached hereto and made a part hereof as Exhibit “1” and in furtherance thereof, the City of Hialeah authorizes the Mayor and the City Clerk, as attesting witness, on behalf of the City, to enter into the Development Agreement and execute any document relating thereto.

Section 3: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 5: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent

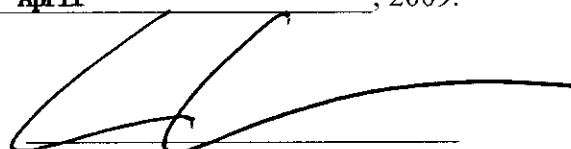
jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

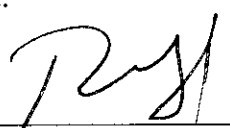
PASSED and ADOPTED this 28th day of April, 2009.

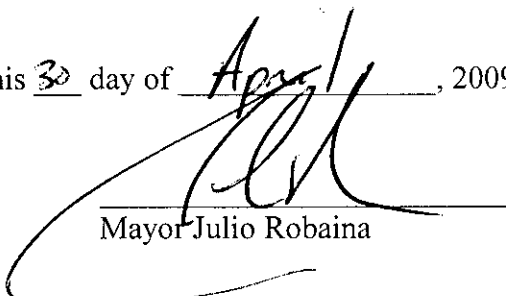
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.


Carlos Hernandez
Council President

Attest:

Approved on this 30 day of April, 2009.


Rafael E. Granado, City Clerk


Mayor Julio Robaina

Approved as to form and legal sufficiency:


William M. Grodnick, City Attorney

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Ordinance was adopted by a unanimous vote with Councilmembers, Caragol, Casals-Muñoz, Cue, Garcia-Martinez, Gonzalez, Hernandez, and Yedra voting "Yes".

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (hereinafter the "Agreement") is made and entered into this 30th day of APRIL, 2009 ("Execution Date") by and between F71-2, LLC and F78-1, LLC (hereinafter, the "Developer"), and the City of Hialeah, Florida, a Florida municipal corporation (hereinafter, the "City").

WITNESSETH:

WHEREAS, Developer is the owner of those certain three (3) parcels of land, located at the northeast corner of NW 97 Avenue and theoretical NW 154 Street within the boundaries of the City and identified by Miami-Dade County Tax Folio Nos. 04-2016-000-0110, 04-2016-000-0060, 04-2016-000-0100 (hereinafter, the "Property"), the legal descriptions of which are attached hereto and made a part hereof as Exhibit "A"; and

WHEREAS, the Property is vacant and undeveloped and the Developer owns the right-of-way for the eastern half of NW 97 Avenue abutting the Property from theoretical NW 154 Street to theoretical NW 162 Street (hereinafter, the NW 97 Avenue Right-of-Way), the legal description of which is attached hereto and made a part hereof as Exhibit "B"; and

WHEREAS, the Developer and City mutually desire to construct and improve expeditiously the NW 97 Avenue Right-of-Way in its entirety; and

WHEREAS, the Developer has agreed to accelerate the dedication of the NW 97 Avenue Right-of-Way to City or City's assignee (Miami-Dade County), in exchange for the construction and improvement of the NW 97 Avenue Right-of-Way and the City's reservation of concurrency for all public facilities, including but not limited to transportation, water, sanitary sewer, solid waste, drainage, parks and recreational, schools, fire and police; and

WHEREAS, the Developer and City mutually desire that the Property be developed as a "Low-Medium Density Residential Community" within the parameters of the "Residential Development District," Hialeah Code §98-1605; and

WHEREAS, the Developer and the City desire to establish certain terms and conditions relating to the proposed development of the Property and wish to establish identifiable parameters for future development; and

NOW, THEREFORE, in consideration of the conditions, covenants and mutual promises herein set forth, the Developer and City agree as follows:

1. Recitals. The foregoing recitals are true and correct and are hereby incorporated herein by reference. All exhibits to this Agreement are hereby deemed a part hereof.

2. Definitions.

- a. "Comprehensive Plan" means the plan adopted by the City pursuant to Chapter 163, Florida Statutes as found in compliance by the Florida Department of Community Affairs.
- b. "Developer" means the person or entity undertaking the development of the Property, as defined in the preamble to this Agreement, or any successors, assigns, or heirs thereof.
- c. "Development" means the carrying out of any building activity, the making of any material change in the use or appearance of any structure or land, or the dividing of land into three or more parcels and such other activities described in Section 163.3221(4), Florida Statutes (2008): provided, however, that the activities and uses set forth in Section 163.3221(4)(b), F.S. shall not constitute development.
- d. "Development permit" includes any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land.
- e. "Effective Date" is the date which is thirty days after a copy of the recorded Agreement received by the State of Florida, Department of Community Affairs.
- f. "Entire Term" is the total term of this Agreement, combining the Initial Term and the Additional Term, as defined herein.
- g. "Governing body" means the Hialeah City Council or successor entity.
- h. "Initial Term" is twenty (20) years commencing on the Effective Date.
- i. "Land" means the earth, water, and air, above, below, or on the surface and includes any improvements or structures customarily regarded as land, except as provided herein.
- j. "Land Development Regulations" means ordinances, rules and policies enacted or customarily implemented by the City for the regulation of any aspect of development and includes any local government zoning, rezoning, subdivision, building construction, or sign regulation or any other regulations controlling the development of or construction upon land in effect as of the Effective Date.

- k. "Laws" means all ordinances, resolutions, regulations, comprehensive plans, land development regulations, and rules adopted by the City of Hialeah affecting the development of land, specifically including the zoning and sign regulations of the City of Hialeah; the provisions of the Hialeah Land Development Code; and Hialeah, Fla., Comprehensive Plan 2003-2015; and the Hialeah Heights Master Plan for Residential Development in effect as of the Effective Date.
 - l. "Public facilities" means major capital improvements, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational, and health systems and facilities for which the City's Comprehensive Plan provides a level of service.
 - m. "Utility" includes any person, firm, corporation, association or political subdivision, whether private, municipal, county or cooperative, which is engaged in the sale, generation, provision or delivery of gas, electricity, heat, water, oil, sewer service, telephone service, telegraph service, radio service or telecommunication service.
3. Intent. It is the intent of the Developer and the City that this Agreement shall be construed and implemented as a development agreement among the parties pursuant to the Florida Local Government Development Agreement Act, Section 163.3220 through 163.3243, F.S., (hereinafter, the "Act").
4. Effective Date and Duration. Immediately upon approval at two public hearings and execution by all parties, the City shall record the Agreement in the public records of Miami-Dade County and transmit one (1) copy of the recorded Agreement to the State of Florida Department of Community Affairs. This Agreement shall become effective on the date that is thirty days subsequent to the State of Florida Department of Community Affairs receives a copy of the recorded Agreement. Notwithstanding the Effective Date provided herein and required by Section 163.3239, F.S., the City and the Developer shall act in good faith to carry out the intent of the Agreement upon the Execution Date. This Agreement shall run with the land, remain in full force and effect, and be binding on all parties and all persons claiming under it for an initial term of twenty (20) years from the Effective Date, and may be extended by mutual consent of the governing body and the Developer subject to a public hearing pursuant to Section 163.3225, F.S. Consent to any extension of this Agreement is within the sole discretion of each party to this Agreement. No notice of termination shall be required by either party upon the expiration of this Agreement and

thereafter the parties hereto shall have no further obligations under this Agreement.

5. Permitted Development Uses and Building Intensities.

- (a) *Permitted Development Uses.* The City has designated the Property as "Low-Medium Density Residential" on the City's Comprehensive Plan and zoned "Residential Development District" by the City's Land Development Regulations. The Property may be used for the purposes permitted in that comprehensive plan designation and zoning district. A copy of the future land use plan map of the Hialeah, Fla, Comprehensive Plan 2003-2015, as amended, is attached hereto and made a part hereof as Exhibit "C".
- (b) *Density, Building Heights, Setbacks and Intensities* The maximum density, heights, setbacks and intensities for any development on the Property shall be regulated by the Laws of the City of Hialeah. The parties acknowledge that the maximum density is based on the provisions of the Hialeah Code § 98-1605 based on development that complies with Laws and based on the development of Miami-Dade County Tax Folio Nos. 04-2016-000-0110, 04-2016-000-0060 and 04-2016-000-0100 as one site or as phased development titled under the same property owner. The Property is zoned Residential Development District, which provides for the maximum gross density of eight (8) units for each gross acre. In calculating gross acreage of dry land for purposes of computing number of maximum residential units or density, all abutting right-of-ways including the NW 97 Avenue Right-of-Way (as identified in Exhibit "B") shall be included. The City and Developer acknowledge that the Property consists of approximately 133 acres, of which approximately 56 acres are currently water bodies. The exact gross and net acreage shall be determined at the time of site plan approval. As an example, because the 56 acres of water bodies would be less than fifty percent (50%) of approximately 133 acres, the "water body credits sliding scale" set forth in the Hialeah Code § 98-1605(b)(4) allows the Developer to utilize one hundred percent (100%) of dry land acreage and seventy percent (70%) of the water bodies acreage towards the calculation of the average gross density. Based upon the foregoing calculation, the City and the Developer agree that the development of the Property with at least 929 residential units would be permitted on the Property pursuant to Laws of the City of Hialeah (hereinafter, the "Project") is consistent with the laws, policies and

regulations contained therein. The Developer acknowledges that internal and connecting roads on the land of the Project shall be dedicated to the City as part of the development, and shall be counted towards the Property's gross acreage of dry land.

- (c) *Fill Option.* The parties further acknowledge that the Developer has the option to fill the water bodies to create dry land after the Effective Date, as permitted by law and regulatory agencies. Notwithstanding the designation of the water bodies on the Property as "Water" on the future land use plan map of Hialeah, Fla., Comprehensive Plan 2003-2015, as amended, a land use amendment shall not be required in order to permit the Fill Option and/or to permit the development of the water bodies consistent with the "Low Medium Density Residential" designation. The City and the Developer further acknowledge that the Developer may exercise the option to fill approximately 34 acres of the water bodies in order to create a total of 111 acres of dry land (hereinafter, the "Fill Option"). Because the remaining 22 acres of water bodies would be less than twenty percent (20%) of the total 133 acres, the "water body credits sliding scale" set forth in the Hialeah Code § 98-1605(b)(4) allows the Developer to utilize one hundred percent (100%) of dry land acreage and ninety percent (90%) of the water bodies acreage towards the calculation of the average gross density. Accordingly, the City and the Developer agree that the development of the Property with 1,046 residential units on the Property pursuant to Laws of the City of Hialeah (hereinafter, the "Project") would also be consistent with the laws, policies and regulations contained therein.

6. Public Services and Facilities; Concurrency. The City and the Developer anticipate that the Property and the Project will be served by those public services and facilities currently in existence as provided by the State of Florida, Miami-Dade County, or the City, or as contemplated in this Agreement. The Property and the Project will also be served by any and all public facilities provided in the City's Comprehensive Plan, specifically including but not limited to, those public facilities described in the Comprehensive Plan's Capital Improvements Element. For the purposes of concurrency, the City hereby agrees to provide, reserve, and allocate sufficient public facility capacity, including but not limited to transportation, water, sanitary sewer, solid waste, drainage, parks and recreational, schools, fire and police to serve the development of the Project on the Property. All subsequent development orders or permits sought to be issued for the Project and this Agreement are hereby found to meet concurrency standards set forth in the Comprehensive Plan (concurrency regulations) and to be

consistent with Land Development Regulations, so long as the Developer develops the Property in substantial compliance with the Laws of the City of Hialeah. Developer shall be bound by the City impact fees and assessments in existence as of the Effective Date of this Agreement, specifically the Fire Impact Fee at \$449.02 per single family dwelling unit and \$149.04 per multi-family dwelling unit, and the Parks and Recreation Impact Fee at \$1,500.00 per dwelling unit, with the exception that that Property and Project will be subject to any potential City impact fee or assessment related to the provision of potable water supply or the design, construction and maintenance of the Reverse Osmosis Water Treatment Plan; however, such fee or assessment shall be the fee or assessment that is established at the time that the fee or assessment is initially adopted, or the fee or assessment that is applicable at the time of the issuance of the first building permit for the Project, whichever is less.

7. Reservation or Dedication of Land. The Developer shall dedicate the NW 97 Avenue Right-of-Way consisting of the fifty feet (50") from the centerline of NW 97th Avenue along with a temporary construction and slope easement to construct the necessary infrastructure and roadway, by delivery of a properly executed right-of-way deed on the same date as the Effective Date. The right-of-way deed and temporary construction and slope easement to be executed by the Developer along with this Agreement and recorded by the City on the Effective Date is attached hereto and made a part hereof as Exhibits "D" and "E".
8. Local Development Permits. The Property is the subject of various development permits consistent with the Property's land use classifications. The City will need to approve the following additional development permits in order for the Developer to complete the Project in a manner consistent with the zoning and comprehensive plan designations on the Property:
 - (a) Rezoning;
 - (b) Platting;
 - (c) Site plan approval;
 - (d) Water, sewer, paving and drainage permits;
 - (e) Building permits;
 - (f) Certificates of occupancy; and
 - (g) Any other official action of the City and/or Miami-Dade County, Florida or other applicable regulatory agencies having the effect of permitting the development of land or providing permits required for the development of land.
9. Consistency with Comprehensive Plan. The City hereby finds and declares that the Developer's exercise of the Fill Option and the development of the Project on the Property complies with the Laws of the City of Hialeah, and is consistent with the City of Hialeah's Comprehensive Plan and Land Development Code.

10. Reservation of Development Rights. For the term of this Agreement, the City hereby agrees that it shall permit the Developer's exercise of the Fill Option and the development of the Property with the Project in accordance with Laws of the City of Hialeah, as of the Effective Date of this Agreement, subject to the conditions of this Agreement. The City's laws and policies governing the development of the Property as of the Effective Date of this Agreement shall govern the development of the Property for the term of this Agreement. Development of the Property with the Project shall not be subject to any future changes to the City's Land Development Regulations and Comprehensive Plan designation after the Effective Date and during the Entire Term. The City may apply subsequently adopted laws or policies to the Property only as permitted or required by the Act.
11. Land Fill of Water Bodies. The Developer agrees not to exercise the Fill Option, backfill or place any material in the water bodies located on the Property without prior approval of all applicable regulatory agencies and the City of Hialeah. The City shall cooperate, designate one representative to facilitate, and expeditiously process any and all applications related to the Fill Option. The Developer shall not place or caused to be placed, tires, hazardous materials, construction material and debris into the water bodies. Before any fill occurs, the Developer shall provide information to the City specifying the area of the water body to be filled, the type and quantity of fill material, schedule of completion of fill, description of the discharge method and transportation routes, and description of action to be taken to minimize the impacts of the land fill activity.
12. Zoning and Other Approvals. The parties hereto recognize and agree that certain provisions of this Agreement require the City and its boards, departments or agencies, acting in their governmental capacity, to consider governmental actions, as set forth in this Agreement. All such considerations and actions shall be undertaken in accordance with established requirements of state statutes and municipal ordinances, in the exercise of the City's jurisdiction under the police power. Nothing in this Agreement shall be construed to prohibit the City from duly acting under its police power to approve, approve with conditions, or reject any public hearing application dealing with the Property.
13. Necessity of Complying with Local Regulations Relative to Development Permits. This Agreement is not and shall not be construed as a development permit or authorization to commence fill operations or development. The Developer and the City agree that the failure of this Agreement to address a particular permit, condition, fee, term or restriction in effect on the Effective Date of this Agreement shall not relieve Developer of the necessity of complying with the regulation

governing said permitting requirements, conditions, fees, terms or restrictions as long as compliance with said regulation and requirements do not require the Developer to develop the Property in a manner that is inconsistent with the Laws of the City of Hialeah in existence as of the Effective Date.

14. Good Faith; Further Assurances. The parties to this Agreement have negotiated in good faith. It is the intent and agreement of the parties that they shall cooperate with each other in good faith to effectuate the purposes and intent of and to satisfy their obligations under this Agreement in order to secure to themselves the mutual benefits created under this Agreement. In that regard, the parties shall execute such further documents as may be reasonably necessary to effectuate the provisions of this Agreement, provided that the foregoing shall in no way be deemed to inhibit, restrict, or require the exercise of the City's police power or actions of the City when acting in a quasi-judicial capacity.
15. Expiration of Agreement. The expiration or termination of this Agreement, for whatever reason, shall not be considered a waiver of, or limitation upon, the rights, including, but not limited to, any claims of vested rights or equitable estoppel, obtained or held by the Developer or its successors or assigns to in compliance with this Agreement and all prior and subsequent development permits or development orders granted by the City, including, but not limited to, those rights granted under the Hialeah, Fla. Comprehensive Plan 2003-2015.
16. Binding Effect. The obligations imposed pursuant to this Agreement upon the Developer and upon the Property shall run with and bind the Property as covenants running with the Property, and this Agreement shall be binding upon and enforceable by and against the parties hereto, their personal representatives, heirs, successors, grantees and assigns.
17. Notices. Any notice required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given if delivered by hand, sent by a recognized courier (such as Federal Express) or mailed by certified or registered mail, return receipt requested, in a postage prepaid envelope and addressed as follows:

If to the City at:

Mayor
City of Hialeah
501 Palm Avenue
Hialeah, Florida 33010

With a copy to:

City Attorney
City of Hialeah
501 Palm Avenue

Hialeah, Florida 33010

If to the Developer at: Mrs. Betty L. Dunn
F71-2, LLC and F78-1, LLC
8083 NW 103 Street
Hialeah Gardens, Florida 33016

With a copy to: Jeffrey Bercow, Esq.
Bercow, Radell & Fernandez, PA
200 S. Biscayne Blvd., Suite 850
Miami, Florida 33131

18. Governing Laws, Construction and Litigation. This Agreement shall be governed and construed in accordance with the laws of the State of Florida. The Developer and the City agree that Miami-Dade County, Florida is the appropriate venue in connection with any litigation between the parties with respect to this Agreement. All of the parties to this Agreement have participated fully in the negotiation and preparation hereof; and accordingly, this Agreement shall not be more strictly construed against any of the parties hereto. In construing this Agreement, captions, and section and paragraph headings shall be disregarded. All of the exhibits referenced in this Agreement are incorporated in, and made a part of, this Agreement. In the event of any litigation between the parties under this Agreement for a breach thereof, the prevailing party shall be entitled to reasonable attorney's fees and court costs at all trial and appellate levels.
19. Severability. In the event that any term or provision of this Agreement is determined by an appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or construed as deleted as such authority determines, and the remainder of this Agreement shall be construed to be in full force and effect.
20. Entire Agreement. This Agreement sets forth the entire Agreement and understanding between the parties hereto relating in any way to the subject matter contained herein and merges all prior discussions between the Developer and the City. Neither party shall be bound by any agreement, condition, warranty or representation other than as expressly stated in this Agreement and this Agreement may not be amended or modified except by written instrument signed by both parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

CITY:

ATTEST:

CITY OF HIALEAH, FLORIDA

Rafael E. Granado
City Clerk

By: Julio Robaina
Mayor

Dated 30 day of April, 2009

Approved for form and legal sufficiency:

William M. Grodnick
William M. Grodnick
City Attorney

DEVELOPER

WITNESS:

F71-2, LLC, a Florida
Liability Company

Enca Hernandez
Signature
Enca Hernandez
Print Name

By: Betty L. Dunn
Name: Betty L. Dunn
Title: Managing Member

YACIS OVALLES
Signature
YACIS OVALLES
Print Name

Dated this ___ day of ___, 2009

STATE OF FLORIDA)

COUNTY OF MIAMI-DADE)

SS.

The foregoing instrument was acknowledge before me this 30th day of APRIL, 2009, by BETTY L. DUNN, as Managing Member of F71-2, LLC, a Florida limited liability company, who is personally known to me or has produced _____ as identification, and acknowledged that she did execute this instrument freely and voluntarily for the purposes stated herein.

My Commissions Expires:

Kathy M. Rangel
Notary Public, State of Florida
Print/type name: KATHY M. RANGEL



WITNESS:

F78-1, LLC, a Florida
Liability Company

Enca Hernandez
Signature
Enca Hernandez

Print Name

Yaris Ovalles
Signature
YARIS OVALLES
Print Name

By: *Betty L. Dunn*
Name: BETTY L. DUNN
Title: Managing Member

Dated this 30 day of APRIL, 2009

STATE OF FLORIDA)
)
COUNTY OF MIAMI-DADE)

SS.

The foregoing instrument was acknowledge before me this 30th day of
APRIL, 2009, by BETTY L. DUNN, as Managing
Member of F78-1, LLC, a Florida limited liability company, who is personally
known to me or has produced _____ as identification, and
acknowledged that she did execute this instrument freely and voluntarily for
the purposes stated herein.

My Commissions Expires:

Kathy M. Rangel
Notary Public, State of Florida
Print/type name: KATHY M. RANGEL



EXHIBIT A

Property Legal Description

Properties identified by Miami-Dade County Folio Nos. 04-2016-000-0110, 04-2016-000-0060 and 04-2016-000-0100, legally described as:

The North 1/2 of the Southwest 1/4 of Section 16, Township 52 South, Range 40 East, of Miami-Dade County Florida, including any portion of the above-described lands dedicated as public right-of-way; and

The East 1/4 of the South 1/2 of the Northwest 1/4 of Section 16, Township 52 South, Range 40 East, of Miami-Dade County Florida, including any portion of the above-described lands dedicated as public right-of-way; and

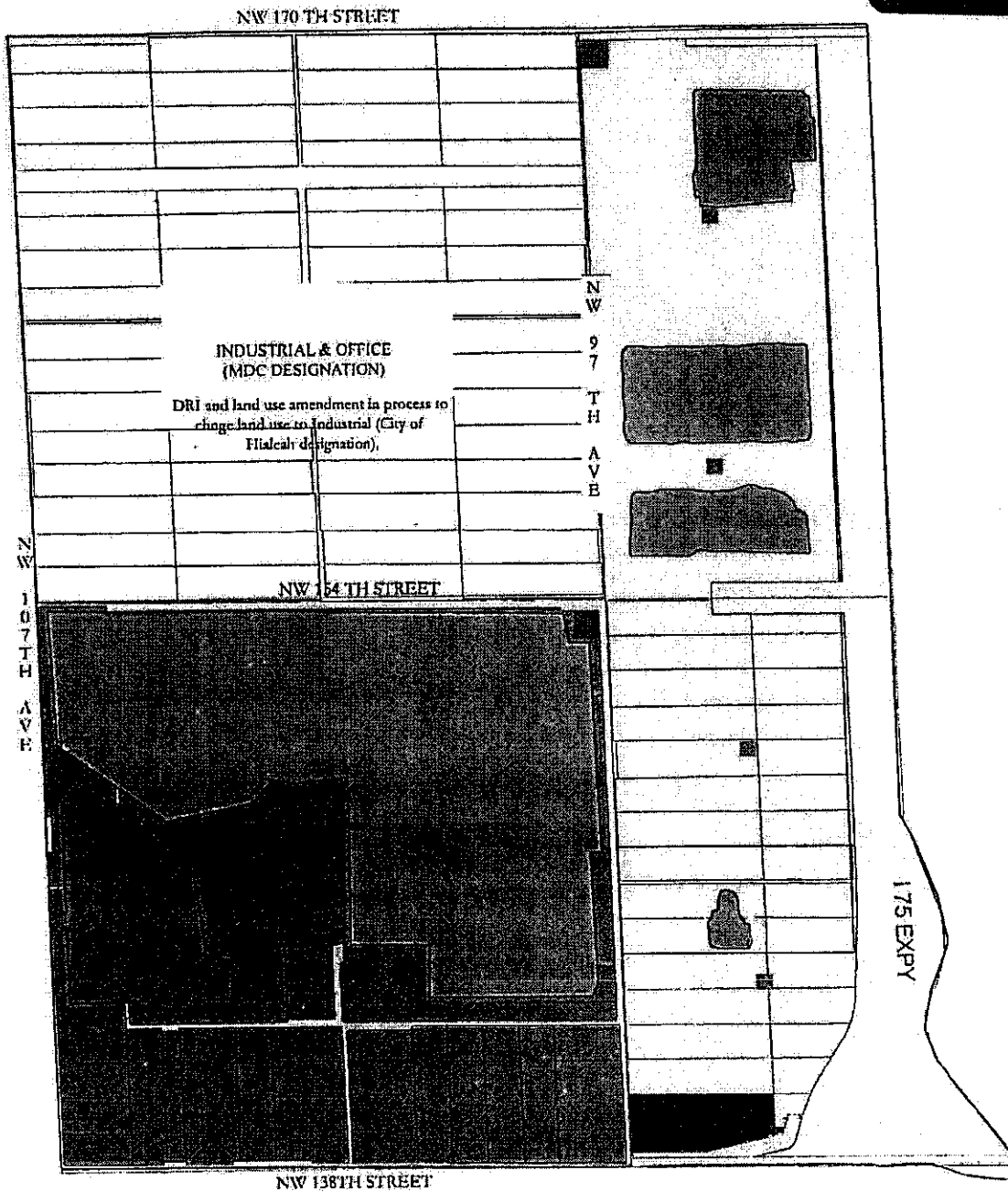
The South 1/2 of the Southwest 1/4 of Section 16, Township 52 South, Range 40 East, of Miami-Dade County, Florida, including any portion of the above-described lands dedicated as public right-of-way.

EXHIBIT B

Right-of-Way Legal Description

The West 50.00 feet of the North 1/2 of the Southwest 1/4 of Section 16, Township 52 South, Range 40 East, of Miami-Dade County Florida, and

The West 50 feet of the South 1/2 of the Southwest 1/4 of Section 16, Township 52 South, Range 40 East, of Miami-Dade County, Florida, excepting therefrom any portion of the above-described lands dedicated as public right-of-way.

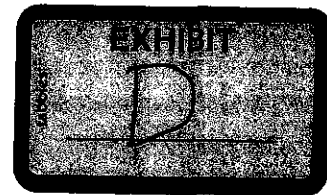


FUTURE LAND USE PLAN



- | | |
|---|--|
| <ul style="list-style-type: none"> Low-Medium Density Residential Mixed Use Commercial Industrial | <ul style="list-style-type: none"> Mc. Arthur School FP & I. Water |
|---|--|





Name: F71-2, LLC

Address: 8083 NW 103 Street
Hialeah Gardens, Florida 33016

This instrument prepared by: City of Hialeah
and return recorded instrument to the following

Address: 501 Palm Avenue, 4th Floor
Hialeah, Florida 33010

Property Appraisers Parcel Identification (Folio)
Number(s): 04-2016-000-0110
04-2016-000-0060

**RIGHT-OF-WAY DEED TO MIAMI-DADE COUNTY, FLORIDA
FOR PUBLIC RIGHT-OF-WAY**

THIS INDENTURE, made this 30th day of APRIL, 2009, by and between F71-2, LLC of the County of Miami-Dade, State of Florida, party of the first part, and Miami-Dade County, Florida, a political subdivision of the State of Florida, its successors in interest, party of the second part.

WITNESSETH, that the said party of the first part, for and in consideration of the sum of Ten Dollars (\$10.00) Dollars, to it in hand paid by the party of the second part, receipt whereof is hereby acknowledged, and for other good and valuable consideration, has granted, bargained, sold, alienated, remised, released, conveyed and confirmed to the party of the second part, its successors in interest, for the purpose of a public right-of-way and purposes incidental thereto, the following described land, situate, lying and being in the County of Miami-Dade, State of Florida, to wit:

See Composite Exhibit "1" attached hereto and made a part hereof by reference.

It is the intention of the party of the first part, by this instrument, to convey to said party of the second part, and its successors in interest, the land above-described for use as a public highway or roadway and for all purposes incidental thereto.

It is expressly provided that if and when the said highway or roadway shall be lawfully and permanently discontinued, the title to the said above-described land shall immediately revert to the party of the first part, its successors and assigns, and it or she shall have the right to immediately re-possess the same, upon written notice to the party of the first part.

And the party of the first part does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

Right-of-Way Deed
Folio No. 04-2016-000-0110
04-2016-000-0060
Page 2

IN WITNESS WHEREOF, the said parties of the first part have hereunto set our hands and seals the day and year first above written.

Signed, sealed and delivered
In the presence thereof:

Bica Hernandez
Witness Signature
Bica Hernandez
Typed/Printed Name

Yaris Ovalles
Witness Signature
YARIS OVALLES
Typed/Printed Name

F71-2, LLC, a Florida limited liability company

By: Betty L. Dunn
Betty L. Dunn
Managing Member

(SEAL)

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

I hereby certify that on this day, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared Betty L. Dunn, as Managing Member of F71-2, LLC, a Florida limited liability company, and she is known to me to be the person described in and who executed the foregoing instrument, who acknowledged before me that she executed the same, and I relied upon the following form of identification of the above-named person: _____ or is personally known to me and that an oath was taken.

Witness my hand and official seal in the County and State last aforesaid this 30 day of APRIL, 2009.



Kathy M. Rangel
Notary Signature
KATHY M RANGEL
Typed/Printed Name

My Commission No.: DD650557

Composite Exhibit "A"

LEGAL DESCRIPTION PARCEL 122

(Parent Tract Folio: 04-2016-000-0110)

The West 50.00 feet of the North (1/2) of the Southwest one-quarter (S.W. 1/4) of Section 16, Township 52 South, Range 40 East, Miami-Dade County, Florida.

Excepting therefrom any portion of the above-described lands previously dedicated as public right-of-way.

LEGAL DESCRIPTION PARCEL 123

(Parent Tract Folio: 04-2016-000-0060)

The West 50.00 feet of the South (1/2) of the Southwest one-quarter (S.W. 1/4) of Section 16, Township 52 South, Range 40 East, Miami-Dade County, Florida.

Excepting therefrom any portion of the above-described lands previously dedicated as public right-of-way.



Instrument prepared by:
Felix M. Lasarte, Esq.
5835 Blue Lagoon Drive Suite 100
Miami, Florida 33126

Folio Nos. 04-2016-000-0110 and 04-2016-000-0060
User Department _____

**TEMPORARY CONSTRUCTION EASEMENT
BY CORPORATION**

STATE OF FLORIDA)
)
COUNTY OF MIAMI-DADE)

THIS EASEMENT, Made this 30th day of APRIL 2009, by and between F71-2, LLC, having their office and principal place of business at 8083 NW 103rd Street Hialeah Gardens, Florida 33016, parties of the first part ("Owner"), and AMB I-75, LLC, a Delaware limited liability company, and its successors and/or assigns ("Grantee"), whose address is 60 State Street, Suite 1200, Boston MA 02109, party of the second part.

WITNESSETH:

That the Owner, for and in consideration of the sum on One Dollar (\$1.00) to it in hand paid by the Grantee, the receipt whereof is hereby acknowledged, and for other and further good and valuable considerations, does hereby grant to the Grantee, a temporary easement, license and privilege to enter upon, and to perform any acts required for the installation of paving, drainage and utility infrastructure for the construction of the N.W. 97th Avenue right-of-way between NW 154th Street and NW 162nd Street in the City of Hialeah, Florida ("Right-of-Way"), upon the following described land, hereinafter known as the "Temporary Easement Area," which is situated, lying and being in the County of Miami-Dade, State of Florida, to wit:

See Exhibit "A"

The Owner shall defend the title to said land against the lawful claims of all persons whomsoever, claiming by, through or under it. The Grantee shall indemnify the Owner from all liability in connection with this temporary easement, license and privilege, and the Owner shall be named as an additional insured on any and all related insurance policies.

Prior to commencing construction, the Grantee shall install and maintain a temporary fence which shall separate the Temporary Easement Area from the balance of the Owner's property. This temporary fence shall provide reasonable access to the

balance of the Owner's property and shall be maintained until such time that the Grantee replaces said temporary fence with a permanent fence, as provided herein. The permanent fence shall consist of a five (5) strand barb wire fence, with fence posts installed on twelve (12) foot centers, driven a minimum of two (2) feet into the ground along with two (2) line braces, two (2) corner braces, and one (1) twenty (20) foot opening with two (2) ten (10) foot metal/chain-link gates, all of which shall be cemented. The Grantee shall cooperate with the Owner as to the exact location of the foregoing opening, gates and braces; however, the approximate locations shall be as follows: the opening and gates shall be located at the center of the length of the permanent fence, and the line braces shall be located half-way between the gates and the northern corner brace and half-way between the gates and the southern corner brace. Upon completion of the construction of the Right-of-Way and prior to the expiration of this temporary easement, the Grantee shall assure that the Temporary Easement Area is in compliance with all applicable building, safety and health codes, and shall restore the Temporary Easement Area to the same condition as existed before the construction, including the erection of the said permanent fence, and the restoration of the slope and established grassing.

THE TERM OF THIS TEMPORARY EASEMENT shall be for twenty-four (24) months from the date hereof, and all rights of the Grantee hereunder, shall cease upon the expiration of said term or completion of the aforementioned activities, whichever comes first, unless an approval of an extension to said term is granted by the Owner, which shall not be reasonably withheld.

IN WITNESS WHEREOF, the parties have caused these presents to be executed in its name, and its Corporate Seal to be hereunto affixed, by its proper officers thereunto duly authorized, the day and year first above written.

Signature Pages to Follow

GRANTEE

WITNESS:

[Signature]
Signature

Lowell S. Dunn II
Print Name

[Signature]
Signature

Cristina Litago
Print Name

AMB 1075, LLC, a Delaware limited liability company

By: [Signature]

Print Name: JOHNNIE R. MORGAN

Title: VP DEVELOPMENT

Attest: Secretary (SEAL)

Printed Name

State of Florida)
County of Miami-Dade)

I HEREBY CERTIFY, that on this 30 day of APRIL, A.D. 2009, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared JOHNNIE MORGAN and _____, personally known to me, or proven, by producing the following identification: CON. DRIVERS LICENSE to be the _____ President and Secretary of AMB Property Corporation, a corporation under the laws of the State of Maryland, and in whose name the foregoing instrument is executed and that said officer(s) severally acknowledged before me that HE executed said instrument acting under the authority duly vested by said corporation and its Corporate Seal is affixed thereto.

WITNESS my hand and official seal in the County and State aforesaid, the day and year last aforesaid.

Notary Seal/Stamp

[Signature]
Notary Signature

KATHY M. RANGEL
Printed Notary Signature



WITNESS:

Beca Hernandez
Signature

Beca Hernandez
Print Name

Yaris Ovalles
Signature

YARIS OVALLES
Print Name

OWNER

**F71-2, LLC, a Florida limited
liability company**

By: Betty L. Dunn

Print Name: BETTY L. DUNN

Title: MANAGING MEMBER

Attest: Secretary (SEAL)

Printed Name

STATE OF FLORIDA)

COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledge before me this 30 day of
APRIL, 2009, by Betty L. Dunn, as Managing Member of F71-2, LLC, a
Florida limited liability company, who is personally known to me or has produced _____
as identification, and acknowledged that she did execute this
instrument freely and voluntarily for the purposes stated herein.

My Commissions Expires:

Kathy M. Rangel
Notary Public, State of Florida

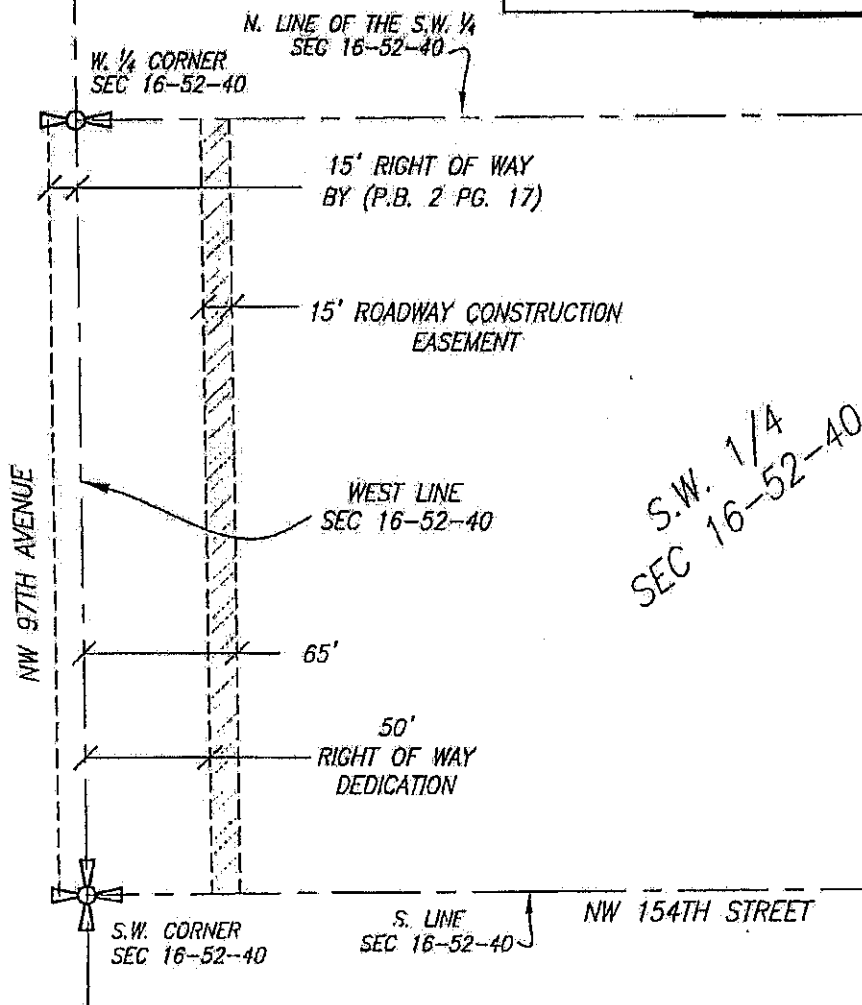
Print/type name: KATHY M. RANGEL



SKETCH & LEGAL DESCRIPTION

LEGEND:

(P.B., PG.) DENOTES PLAT BOOK AND PAGE



LEGAL DESCRIPTION

15 FOOT ROADWAY CONSTRUCTION EASEMENT

"NOT TO SCALE"

(PARENT TRACT FOLIO NUMBER: 04-2016-000-0060 & 04-2016-000-0110)

THE EAST FIFTEEN (15') FEET OF THE WEST SIXTY FIVE (65') FEET OF THE SOUTHWEST 1/4 OF SECTION 16, TOWNSHIP 52 SOUTH, RANGE 40 EAST, LYING AND BEING IN MIAMI-DADE COUNTY, FLORIDA.

NOTES:

- 1) ORDERED BY: I-75 AMB PROPERTIES.
- 2) AUTHENTIC COPIES OF THIS SKETCH AND LEGAL DESCRIPTION MUST BEAR THE EMBOSSED SEAL OF THE ATTESTING PROFESSIONAL LAND SURVEYOR.

SHEET 1 OF 1 SHEETS



Schwelbke-Shiskin & Associates, Inc.
LAND SURVEYORS-ENGINEERS-LAND PLANNERS - 3240 CORPORATE WAY-MIRAMAR, FL 33025
PHONE No. (954) 435-7010 FAX No. (954) 438-3288

ORDER NO. 194693-G1

DATE: 2/15/2008

THIS IS NOT A "BOUNDARY SURVEY"
CERTIFICATE OF AUTHORIZATION No. LB-87

PREPARED UNDER MY SUPERVISION:

ALFONSO C. TELLO, PRESIDENT
FLORIDA PROFESSIONAL LAND SURVEYOR No. 2978

REVISIONS